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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Bryan V. Hunt, et al.

PHOTOTHERMOGRAPHIC  
MATERIALS WITH IMPROVED  
IMAGE TONE

Serial No. 10/686,806

Filed 16 October 2003

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA. 22313-1450

Sir:

Group Art Unit: 1752

Examiner: Chea, Thorl

I hereby certify that this correspondence is being deposited today with the United States Postal Service as first class mail in an envelope addressed to Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*Sherryl A. Payne*  
Sherryl A. Payne

*August 16, 2005*  
Date

**DECLARATION UNDER 37 C.F.R. 1.132**

I, Bryan V. Hunt, declare that:

(1) I am a co-inventor of the invention described and claimed in the present application, along with Lilia P. Burleva and Mark C. Skinner.

(2) I received a B.S. degree in Chemical Engineering from the University of Minnesota in 1992.

(3) From April 1992 to July 1996, I was employed by 3M Company; from July 1996 to December 1998, I was employed by Imation Corporation; and from December 1998 to the present, I have been employed by Eastman Kodak Company, all in facilities located near St. Paul, Minnesota.

(4) During my employment with 3M Company, Imation Corporation, and Eastman Kodak Company, I have been involved in research and development work in the area of imaging science and materials, and particularly in research and development of photothermographic materials and products. In the course of that work, I have been an inventor or co-inventor of at least 10

inventions that are the subject of granted U.S. patents, pending U.S. patent applications, or published patent applications in other countries.

(5) In view of this academic and professional technical experience, I can say, with appropriate modesty, that I am a worker having at least ordinary skill in the art to which the present invention pertains, namely photothermography and components used therein.

(6) I am familiar with the Office Action dated June 28, 2005 that has been received during the prosecution of the present application, and the art cited therein, and I believe that I understand the Examiner's arguments in support of his rejections of the presently claimed invention.

(7) I am familiar with U.S. Patent 5,677,121 (Tsuzuki) and its teaching relating to Dyes 1-5 that are included in the described materials as spectral sensitizing dyes. Dyes 1 through 5 are used at levels far too small to provide any significant absorbance (see Col. 19-20 for the amount of less than  $10 \text{ mg/m}^2$  for an upper limit by conventional calculations; the formulation has some ambiguity, but that is the highest level possible). This certainly is not Applicants' required absorption of at least 1.0 at an exposure wavelength. To confirm this, I coated Dye 1 (shown in column 20 of Tsuzuki) at a coating weight of  $10 \text{ mg/m}^2$  and obtained a peak absorbance of less than 0.1 at 780 nm. This is far below the required absorption of at least 1.0 at the exposure wavelength for the present invention. In Example 2 (column 22, lines 45-47), Tsuzuki uses infrared sensitizing Dyes 2 to 5 at the same molar ratio as that used for Dye 1. This too would result in an absorption far below the our required absorption of at least 1.0 at the exposure wavelength

(8) That all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. These statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: August 12, 2005

Bryan V. Hunt  
Bryan V. Hunt